

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY

THIS AGREEMENT, entered into this 7TH day of MAY, 1984, pursuant to Arizona Revised Statutes, Section 11-951 through 11-954, as amended, by and between the STATE OF ARIZONA, acting by and through the ARIZONA DEPARTMENT OF TRANSPORTATION, hereinafter called "STATE", and the FLOOD CONTROL DISTRICT OF MARICOPA COUNTY, a municipal corporation and a political subdivision of the State of Arizona, hereinafter called "DISTRICT".

WHEREAS, the State is empowered by A.R.S. Section 28-108 to enter into this Agreement, and by Section 45-2365 to grant right-of-way in, under, along or across State highway right-of-way for flood control purposes, and the Director of the ARIZONA DEPARTMENT OF TRANSPORTATION has delegated to the undersigned his authorization to execute this Agreement on behalf of the STATE; and

WHEREAS, the District is empowered by A.R.S. Section 45-2360 and 45-2369 to enter into this Agreement, and acting by and through its governing body, has by that certain resolution attached hereto and incorporated herein resolved to enter into this Agreement and has authorized the undersigned as its representative to execute the same on behalf of the DISTRICT; and

WHEREAS, the District's flood control structures, when built, will cross the State's right-of-way for S.R. 360 (Superstition Freeway) at or near the point where said highway crosses the section line common to Sections 35 and 36, Township 1 North, Range 6 East, Gila and Salt River Base and Meridian, Maricopa County, Arizona; and

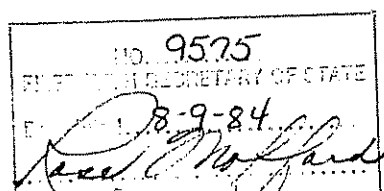
WHEREAS, both parties wish to establish adequate right-of-way for the District's flood control structures to cross under S.R. 360 and to clarify their respective responsibilities regarding operation, maintenance and liability at the crossing.

THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

STATE SHALL:

1. Grant to DISTRICT a permit to construct, reconstruct, operate and maintain said flood control structures, including a floodway, detention basin, appurtenant maintenance roads and recreational/pedestrian ways on the land described in Exhibit "A" and passing beneath the highway right-of-way.

2. Be responsible only for the maintenance of the highway bridge, superstructure, substructure, wingwalls, the approaches to the bridge and the highway drainage within the STATE's right-of-way.



DISTRICT SHALL:

1. Design and construct to State standards, those certain structures and appurtenances required by District to conduct drainage waters beneath said highway right of way.
2. On its own behalf or through its designee, Soil Conservation Service, engage a contractor for the purpose of constructing said structures and appurtenances.
3. Be responsible only for the operation and maintenance of the flood control structures and appurtenant maintenance roads and recreational/pedestrian ways within the highway right-of-way.
4. Indemnify and save the State harmless from all liability however arising to any and all persons, whether for personal injuries or otherwise and from any claim of any person of damage to or loss of property by reason of the development, use and maintenance of the aforementioned flood control structures and appurtenances or by reason of anything done or permitted to be done or omitted from being done by the District in and about the area of said highway right-of-way.

IT IS FURTHER AGREED THAT:

1. All costs related to construction of the flood control structures and appurtenances shall be solely the responsibility of the District and/or the Soil Conservation Service, U. S. Dept. of Agriculture.
2. Each party shall assume the costs of its operation and maintenance responsibility as set forth above.

This agreement shall remain in full force and effect until completion of said construction project as aforesaid; provided, however, that this agreement may be cancelled at any time prior to the commencement of construction upon 30 days' written notice to the other party; provided, however, agreements herein relating to maintenance shall be in perpetuity.

All parties hereto acknowledge that this agreement is subject to cancellation by the Governor pursuant to the provisions of Section 38-511 Arizona Revised Statutes.

In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Section 12-1518 (B) and (C) of Arizona Revised Statutes as amended.

This agreement shall become effective on the date of filing same with the Secretary of State.

Attached hereto and incorporated herein by reference is a copy of State's resolution authorizing entry into this agreement, a copy of the District's Resolution passed by its Board of Directors, a copy of the written determination of the appropriate attorney that District is authorized under the laws of this State to enter into this agreement and that said agreement is in proper form, and a copy of the Attorney General's Intergovernmental Agreement Determination.

IN WITNESS WHEREOF, the parties have executed this agreement
the day and year first above written.

FLOOD CONTROL DISTRICT OF MARICOPA
COUNTY

STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION

BY: Fred Kroyger
Chairman, Board of Directors

BY: W. O. Ford
for Chief Deputy State Engineer

ATTEST:

84 225210

Cherie Collig
Clerk of the Board
Date MAY 7 1984

RECOMMENDED FOR APPROVAL

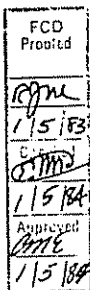
D. E. Sagramoso
D. E. Sagramoso, P.E.
Chief Engineer and General Manager

The foregoing Intergovernmental Agreement has been reviewed by the undersigned
General Counsel for the Flood Control District of Maricopa County, and has been
found to be within the powers and authority granted to the Flood Control District
by the statutes and laws of the State of Arizona.

General Counsel
General Counsel

RWCD FLOODWAY - REACH 5
PT. SECS. 35 & 36-T1N,R6E
N-2272-PE
N-2273-PE
ADOT

N-2272-PE: That portion of the Northwest quarter of Southwest quarter (NW⁴SW⁴) and the South 400' of the Northwest Quarter of section 36, T1N,R6E, G&SRB&M, Maricopa County, Arizona, lying within the Superstition Freeway (ADOT) right of way and described as follows: Beginning on the West section line at a point which bears South 00°07'26" West 2247.95' from the Northwest corner of said section; said point also being the Northwest corner of the South 400' of said Northwest Quarter; thence along the North line of said South 400' and the North right of way line of said Superstition Freeway North 89°38'28" East 253.87' to the East right of way line of the RWCD Floodway; thence along said East right of way line South 28°03'40" East 687.79' to the South line of said Superstition Freeway right of way; thence along said line South 87°20'46" West 287.84' to the East right of way line of the RWCD Main Canal; thence along said line North 28°03'40" West 616.56' to the West line of said section at a point North 00°07'26" East 325.43' from the West quarter corner of said section; thence along said line North 00°07'26" East 74.60' to the point of beginning; containing 179,034 square feet or 4.11 acres more or less.



Also N-2273-PE: That portion of the South 400' of the Northeast Quarter (NE⁴) of section 35, T1N,R6E, G&SRB&M, Maricopa County, Arizona, lying Northeasterly of the right of way of the RWCD Canal and lying within the Superstition Freeway (ADOT) right of way; said portion is described as follows: Beginning on the East section line at a point which bears South 00°07'26" West 2247.95' from the Northeast corner of said section; thence along said line South 00°07'26" West 74.60' to a point on the East right of way line of the RWCD Main Canal; said point bears North 00°07'26" East 325.43' from the East quarter corner of said section; thence along said right of way line North 28°03'40" West 17.34'; thence continuing along said right of way line Northwesterly 65.83' along a curve to the right having a radius of 1244.06' to the North line of the South 400' and North right of way line of said Superstition freeway; thence along said right of way line North 89°22'00" East 37.74' to the point of beginning; containing 1442 square feet or 0.03 acres more or less.

The combined areas in Section 35 & 36 is 4.14 acres more or less.

RESOLUTION

BE IT RESOLVED on this 22 day of May, 1984,
that I, W. A. Ordway, as Director, ARIZONA DEPARTMENT OF
TRANSPORTATION, have determined that it is in the best
interests of the State of Arizona that the DEPARTMENT OF
TRANSPORTATION, acting by and through the Highways Division,
enter into an Intergovernmental Agreement with The Flood
Control District of Maricopa County for the purpose of
establishing rights of way for drainage waters to flow
beneath the Superstition Freeway (S. R. 360) in the area
of Recker Road.

Therefore, authorization is hereby given to draft said
Agreement which, upon completion, shall be submitted for
approval and execution by the Chief Deputy State Engineer.


W. A. Ordway, Director
Arizona Department of
Transportation

RESOLUTION (FCD 84-5)

AUTHORIZATION FOR THE CHAIRMAN AND CLERK OF THE FLOOD CONTROL DISTRICT BOARD OF DIRECTORS TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO ESTABLISH THE ROOSEVELT WATER CONSERVATION DISTRICT (RWCD) FLOODWAY BENEATH THE SUPERSTITION FREEWAY.

The Board of Directors of the Flood Control District of Maricopa County convened in the Supervisor's Auditorium at 205 West Jefferson Street, Phoenix, Arizona on May 7, 1984, with a quorum present and in accordance with the recommendation of the Chief Engineer and General Manager of the Flood Control District, adopted the following resolution on motion made by Mr. Freestone:

WHEREAS, the construction of the RWCD Floodway Project will require a crossing at the Superstition Freeway; and

WHEREAS, included in the Arizona Department of Transportations (ADOT's) condemnation judgment for Superstition Freeway right-of-way is a provision that ADOT will cooperate with the Flood Control District and provide for the RWCD Floodway across ADOT's right-of-way in a mutually acceptable manner;

NOW, THEREFORE, BE IT RESOLVED that the Chairman and Clerk of the Board are authorized and directed to execute an Intergovernmental Agreement between the State of Arizona Department of Transportation and the Flood Control District of Maricopa County for the construction and perpetual operation and maintenance of the RWCD Floodway upon, across and beneath the right-of-way for the Superstition Freeway.

Chairman, Board of Directors
Flood Control District of Maricopa County

Fred Kory, Jr.
ATTEST:

Cherie E. Elly
Clerk of the Board

Date: MAY 7 1984



OFFICE OF THE
Attorney General

TRANSPORTATION DIVISION
1275 WEST WASHINGTON
PHOENIX, ARIZONA 85007
(602) 255-1680

ROBERT K. CORBIN
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 84-310, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. Sec. 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 3rd day of August, 1984.

ROBERT K. CORBIN
Attorney General

A handwritten signature in cursive script, appearing to read "James H. Regan".

Assistant Attorney General
Transportation Division